

## SEWAGE HANDLING AND DISPOSAL APPEAL REVIEW BOARD

Final

Hearing Minutes

January 13, 2010

The Sewage Handling and Disposal Appeal Review Board (the "Board") met on January 13, 2010, in the Main Floor Conference Room, James Madison Building, Richmond, Virginia. Board members present were Steven Thomas (Chairman), Jeanne Hockaday, Gerald Johnson, Amy Pemberton, Ronnie Thomas and Danny Hatch. Assistant Attorney General Ishneila G. Moore, Counsel to the Board, and Donna Tiller, Secretary to the Board were also present.

Three appeals were on the docket for the Board's consideration. Michael & Sonya Happel, Chesterfield County; William Tice, Gloucester County; and Robert Duncan, Prince George County.

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The hearing was called to order at 9:10 am. Mr. Price and the Happs both presented their opening statements.

Witnesses present were: Lance Gregory, Michael Andrews, Jay Conta and Jack Watts, VDH; Jim Rowe, Builder for the Happs.

After hearing the presentations and evidence in the appeal, Amy Pemberton moved that the Board go into closed session pursuant to Section 2.2-3711.A.7 of the *Code of Virginia* for consultation with legal counsel pertaining to actual or probable litigations, and consultation with legal counsel regarding specific legal matters requiring the provision of legal advice by counsel. Danny Hatch seconded the motion. The motion carried unanimously.

Upon reconvening the hearings, Danny Hatch moved that the Board end its closed session and certify that, to the best of each member's knowledge, (i) only public business matters lawfully exempted from opening meeting requirements by Virginia law were discussed in the closed session to which this certification applies, and (ii) only such public business matters as were identified in the motion convening the closed session were heard, discussed or considered by the Board. Gerald Johnson seconded the motion. The motion carried unanimously.

Gerald Johnson read the Board's motion to uphold VDH's decision to deny reimbursement to the Happs. Danny Hatch seconded the motion and the motion carried unanimously, no opposed. The hearing adjourned at 10:40 am

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Before the William C. Tice hearing began and after the introductions, Jeanne Hockaday let the Board and both parties know that the realtor who submitted the health department application is still employed by her company. Jeanne also stated that even though her employee was involved in the application process, she has not visited the property. Steve Thomas then asked if VDH and the appellant had any objections to Jeanne staying on the Board and hearing the case. There were no objections from either side.

The hearing was called to order at 10:55 am. Mr. Price and Courtney Paulk, Attorney for Mr. Tice both presented their opening statements.

Witnesses present were: David Fridley and M.B. Sheppard, VDH; Elizabeth Aldrich, adjacent property owner of Mr. Tice and Ms. Perkins from Bay Design.

After hearing the presentations and evidence in the appeal, Amy Pemberton moved that the Board go into closed session pursuant to Section 2.2-3711.A.7 of the *Code of Virginia* for consultation with legal counsel pertaining to actual or probable litigations, and consultation with legal counsel regarding specific legal matters requiring the provision of legal advice by counsel. Ronnie Thomas seconded the motion. The motion carried unanimously.

Upon reconvening the hearings, Ronnie Thomas moved that the Board end its closed session and certify that, to the best of each member's knowledge, (i) only public business matters lawfully exempted from opening meeting requirements by Virginia law were discussed in the closed session to which this certification applies, and (ii)

only such public business matters as were identified in the motion convening the closed session were heard, discussed or considered by the Board. Gerald Johnson seconded the motion. The motion carried unanimously.

Amy Pemberton read the Board's motion to uphold VDH's decision to deny Mr. Tice a variance to obtain a permit. Gerald Johnson seconded the motion. The motion carried 5 ayes and 1 opposed. The hearing adjourned at 1:05 pm.

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The hearing was called to order at 2:05 pm. Mr. Price and the Duncans both presented their opening statements.

Witnesses present were: Alice Weathers, Tim Jones, Charles Leonard, VDH; Tom Graham, Installer for the Duncans.

After hearing the presentations and evidence in the appeal, Amy Pemberton moved that the Board go into closed session pursuant to Section 2.2-3711.A.7 of the *Code of Virginia* for consultation with legal counsel pertaining to actual or probable litigations, and consultation with legal counsel regarding specific legal matters requiring the provision of legal advice by counsel. Gerald Johnson seconded the motion. The motion carried unanimously.

Upon reconvening the hearings, Ronnie Thomas moved that the Board end its closed session and certify that, to the best of each member's knowledge, (i) only public business matters lawfully exempted from opening meeting requirements by Virginia law were discussed in the closed session to which this certification applies, and (ii) only such public business matters as were identified in the motion convening the closed session were heard, discussed or considered by the Board. Gerald Johnson seconded the motion. The motion carried unanimously.

Gerald Johnson read the Board's motion to overturn VDH's decision to deny reimbursement to the Duncans and award them \$2,646.45. Ronnie Thomas seconded the motion. The motion carried 5 ayes and 1 opposed.

All business was concluded at 4:50 p.m.

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Donna Tiller, Secretary to the Board

c: Robert W. Hicks  
Allen Knapp